



AN ACT REVISING LAWS PERTAINING TO THE DISPOSITION OF PERSONAL PROPERTY ABANDONED BY A TENANT AFTER TERMINATION OF A RENTAL AGREEMENT; CLARIFYING THE RESPONSIBILITIES OF A LANDLORD WITH RESPECT TO A TENANT'S ABANDONED PROPERTY; AND AMENDING SECTION 70-24-430, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-24-430, MCA, is amended to read:

"70-24-430. Disposition of personal property abandoned by tenant after termination. (1) (a) If a tenancy terminates in any manner except by court order and the landlord ~~reasonably believes~~ has clear and convincing evidence that the tenant has abandoned all personal property that the tenant has left on the premises and a period of time of at least ~~5 days~~ 48 hours has elapsed since ~~the occurrence of events upon which the landlord formed that belief~~ obtained that evidence, the landlord may ~~remove the property from the premises~~ immediately remove the abandoned property from the premises and immediately dispose of any trash or personal property that is hazardous, perishable, or valueless.

(b) An item that is clearly labeled "rent to own" or "leased" or likewise identified may be discarded only with confirmation from the lessor that the item does not have a lien, provided that the lessor can be easily identified from the label and the landlord makes a reasonable effort to contact the lessor.

(c) For the purposes of this subsection (1), the following definitions apply:

(i) "Hazardous" means any item that is potentially or actually flammable, a biohazard, or an item otherwise capable of inflicting personal harm or injury.

(ii) "Perishable" means any item requiring refrigeration or any food item with a marked expiration date.

(iii) "Valueless" means any item that has an insubstantial resale value but does not include personal photos, jewelry, or other small items that are irreplaceable.

(2) The landlord shall inventory and store all ~~goods, chattels, and abandoned~~ abandoned personal property of the tenant that the landlord reasonably believes is valuable in a place of safekeeping and shall exercise reasonable

care for the property. The landlord may charge a reasonable storage and labor charge if the property is stored by the landlord, plus the cost of removal of the property to the place of storage. The landlord may store the property in a commercial storage company, in which case the storage cost includes the actual storage charge plus the cost of removal of the property to the place of storage.

(3) After complying with ~~subsections (1) and~~ subsection (2), the landlord shall:

~~—— (a) make a reasonable attempt to notify the tenant in writing that the property must be removed from the place of safekeeping;~~
~~—— (b) notify the local law enforcement office of the property held by the landlord;~~
~~—— (c) make a reasonable effort to determine if the property is secured or otherwise encumbered; and~~
~~—— (d) send by sending a notice with a certificate of mailing or by certified mail to the last-known address of the tenant, stating that at a specified time, not less than 45 10 days after mailing the notice, the property will be disposed of if not removed.~~

(4) The landlord may dispose of the property after complying with subsection (3) by:

(a) selling all or part of the property at a public or private sale; or
 (b) destroying or otherwise disposing of all or part of the property if the landlord reasonably believes that the value of the property is so low that the cost of storage or sale exceeds the reasonable value of the property.

(5) If the tenant, upon receipt of the notice provided in subsection (3), responds in writing to the landlord on or before the day specified in the notice that the tenant intends to remove the property and does not do so within 7 days after delivery of the tenant's response, the tenant's property whether of value or not is conclusively presumed to be abandoned. If the tenant removes the property, the landlord is entitled to storage costs for the period that the property remains in safekeeping, plus the cost of removal of the property to the place of storage. Reasonable storage costs are allowed a landlord who stores the property, and actual storage costs are allowed a landlord who stores the property in a commercial storage company. A landlord is entitled to payment of the storage costs allowed under this subsection before the tenant may remove the property.

(6) The landlord is not responsible for any loss to the tenant resulting from storage unless the loss is caused by the landlord's purposeful or negligent act. On the event of purposeful violation, the landlord is liable for actual damages.

(7) A public or private sale authorized by this section must be conducted under the provisions of 30-9A-601 or the sheriff's sale provisions of Title 25, chapter 13, part 7.

(8) The landlord may deduct from the proceeds of the sale the reasonable costs of notice, storage, labor, and sale and any delinquent rent or damages owing on the premises and shall remit to the tenant the remaining proceeds, if any, together with an itemized accounting. If the tenant cannot after due diligence be found, the remaining proceeds must be deposited with the county treasurer of the county in which the sale occurred and, if not claimed within 3 years, must revert to the general fund of the county available for general purposes.

(9) The landlord shall ensure that the terms of this section are included in plain and understandable language as a notification in any lease or rental agreement at the time of the agreement or when the tenant occupies the property. The landlord shall provide the same notification upon termination of the lease or rental agreement."

- END -

I hereby certify that the within bill,
HB 0368, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2013.

President of the Senate

Signed this _____ day
of _____, 2013.

HOUSE BILL NO. 368

INTRODUCED BY CLARK, COFFIN, CUFFE, GURSKY

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